

## REMARKS

Applicants request favorable reconsideration of this application in view of the foregoing amendments and the following remarks. Of claims 1, 3-9, 11, and 12 that were pending in the application, claims 1, 3, 4, and 11 were rejected in the Office Action. Applicants greatly appreciate the allowance of claims 5-9 and 12. By way of this Amendment, Applicants have amended claims 1 and 11. Therefore, claims 1, 3-9, 11, and 12 remain pending for further consideration.

### 1. Examiner Interview

Applicants' undersigned counsel greatly appreciates the courtesy afforded by Examiner Le during the telephonic Examiner Interview that was conducted on August 31, 2006. During the Interview, as shown on the Interview Summary, the Examiner indicated that the amendments and arguments presented herein appear to overcome the rejection based on U.S. Patent No. 5,199,399 ("Shibuya"). Accordingly, Applicants agree with the Interview Summary. For the sake of maintaining a complete and accurate record, the arguments previously submitted to the Examiner, in draft form, are hereafter set forth in their entirety.

### 2. Rejection of Claims 1, 3, 4, and 11 under 35 U.S.C. § 103(a)

The Examiner rejected claims 1, 3, 4, and 11 under 35 U.S.C. § 103(a) as allegedly being obvious in view of U.S. Patent No. 5,199,399 ("Shibuya"). For at least the following reasons, Applicants respectfully traverse this rejection.

As amended, claim 1 (*i.e.*, the claim from which claims 3 and 4 depend) recites a control apparatus for an automotive vehicle. This control apparatus includes, among other possible things (*italic and underline emphasis added*):

- a continuously variable transmission associated with a vehicular engine, including a belt that transmits a revolution of a primary pulley to a secondary pulley, and that is enabled to make a gear shift by modifying a pulley ratio between the primary and secondary pulleys with a hydraulic;
- a belt slip determining section that determines, when the vehicle is moving, if a slip of the belt between at least one of the primary and the secondary pulleys and the belt occurs; and*
- an output section that outputs a signal to command an engine control unit to increase an engine idling speed by a predetermined engine speed when the vehicle stops moving, wherein the output section outputs the signal when the belt slip determining section determines that the slip therebetween occurs.*

Similarly, claim 11 recites a control method for an automotive vehicle, which includes, among other possible things: “a continuously variable transmission associated with an engine and including a belt that transmits a revolution of a primary pulley to a secondary pulley that is enabled to make a gear shift by modifying a pulley ratio between the primary and secondary pulleys with a hydraulic.” This control method includes, among other possible steps (*italic and underline emphasis added*):

ascertaining whether the vehicle is moving; and

*if the vehicle is moving:*

(a) determining if a belt slip between at least one of the primary and the secondary pulleys and the belt occurs; and

(b) *if belt slip occurs, outputting a signal to command an engine control unit to increase an engine idling speed by a predetermined engine speed when the vehicle stops moving.*

For at least the following reasons Shibuya fails to teach or suggest the control apparatus recited in claim 1 or the control method recited in claim 11.

In rejecting claims 1, 3, 4, and 11, the Examiner admits that Shibuya fails to teach increasing the engine idling speed “when the vehicle stops moving.” *See* Office Action at p. 5. The Examiner asserts, however, that Shibuya suggests such a function by stating:

It would have been obvious to one of ordinary skill in the art at the time [of] this invention to modify Shibuya such that the engine control unit 30 would continue to perform the determining and preventing of the belt slip phenomenon during engine idle operation, by increasing the engine idling speed to a predetermined idling speed, while the vehicle is stationary, in order to provide a sufficient tension of the belt as well as to improve the durability of the belt (i.e., column 6, lines 28-31).

*See id.* Applicants respectfully disagree. The passage cited by the Examiner is directed towards Shibuya’s goal of preventing belt slip. The passage does not provide motivation to one of ordinary skill in the art to correct a belt slip, which is detected when a vehicle is moving, when the vehicle stops moving, as recited in claims 1 and 11. Moreover, even assuming, *arguendo*, that one of ordinary skill in the art would be motivated “to perform the determining and preventing of the belt slip phenomenon during engine idle operation,” this is not what is recited in claims 1 and 11. Rather, although claims 1 and 11 recite that the correction of the belt split occurs when the vehicle stops (*i.e.*, during engine idle operation), the claims also recite that the determination of belt slip occurs while the vehicle is moving (*i.e.*, not during engine idle operation). For at least these reasons, Applicants respectfully disagree with the Examiner’s statement of motivation.

In addition to the foregoing, Applicants also note that the Examiner asserts that Shibuya teaches that:

the output section outputs the signal to command the engine control unit to increase an engine speed by the *inherently* predetermined engine speed when the belt slip determining section determines that the slip therebetween occurs and when the vehicle is moving (i.e., column 5, line 14 – column 6, line 66; column 7, lines 10-26)[.]

*See* Office Action at p. 4 (*italic emphasis added*). With all due respect, Shibuya teaches increasing the engine speed to prevent belt slip. *See, e.g.*, Shibuya at col. 6, lines 61-66. Shibuya, however, neither expressly nor inherently teaches or suggests that the degree to which the engine speed is increased is “predetermined.” Rather, Shibuya teaches that the engine speed is sufficiently increased to prevent the belt slip and that the degree of the increase is apparently based on the situation at hand, *i.e.*, the degree of increase is not predetermined. As a result, Shibuya fails to teach or suggest this limitation of claims 1 and 11. Further, in light of this failure of Shibuya to teach or suggest this limitation of claim 1, Shibuya also fails to teach or suggest the further limitation recited in claim 3, *i.e.*, that the engine control unit increases “the engine idling speed by the predetermined engine speed when the original pressure during the vehicle stop is determined to be equal to or below the predetermined hydraulic pressure value by the original hydraulic determining section.”

In light of the foregoing arguments, it is clear that Shibuya fails to teach or suggest at least the above-italicized each of the limitations of claims 1 and 11. As a result, Shibuya can not be used to reject claims 1 and 11, or any claim dependent thereon, under 35 U.S.C. § 103(a). Moreover, as claims 3 and 4 depend from claim 1, each of these dependent claims is also allowable over Shibuya, without regard to the other patentable limitations recited therein. Accordingly, Applicants respectfully request a withdrawal of the rejection of claims 1, 3, 4, and 11 under § 103(a).

**3. Conclusion**

For the aforementioned reasons, claims 1, 3-9, 11, and 12 are now in condition for allowance. A Notice of Allowance at an early date is respectfully requested. The Examiner is invited to contact the undersigned if such communication would expedite the prosecution of the application.

Respectfully submitted,

Date September 1, 2006

\_\_\_\_\_

Customer Number: 22428

FOLEY & LARDNER LLP

3000 K Street, N.W.

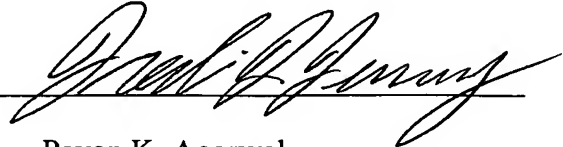
Suite 500

Washington, D.C. 20007-5143

Telephone: (202) 672-5300

Facsimile: (202) 672-5399

By \_\_\_\_\_



Pavan K. Agarwal

Registration No. 40,888

Frederic T. Tenney

Registration No. 47,131

Attorneys for Applicant

THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY ADDITIONAL FEES WHICH MAY BE REQUIRED REGARDING THIS APPLICATION UNDER 37 C.F.R. §§ 1.16-1.17, OR CREDIT ANY OVERPAYMENT, TO DEPOSIT ACCOUNT NO. 19-0741. SHOULD NO PROPER PAYMENT BE ENCLOSED HERewith, AS BY A CHECK BEING IN THE WRONG AMOUNT, UNSIGNED, POST-DATED, OTHERWISE IMPROPER OR INFORMAL OR EVEN ENTIRELY MISSING, THE COMMISSIONER IS AUTHORIZED TO CHARGE THE UNPAID AMOUNT TO DEPOSIT ACCOUNT NO. 19-0741. IF ANY EXTENSIONS OF TIME ARE NEEDED FOR TIMELY ACCEPTANCE OF PAPERS SUBMITTED HERewith, APPLICANT HEREBY PETITIONS FOR SUCH EXTENSION UNDER 37 C.F.R. § 1.136 AND AUTHORIZES PAYMENT OF ANY SUCH EXTENSIONS FEES TO DEPOSIT ACCOUNT NO. 19-0741.